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*MasterCard
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Via Electronic Delivery

January 12, 2004

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Email:
regs.comments@federalreserve.gov

Re: Docket No. R-1175

Dear Ms. Johnson:

This letter is submitted on behalf of MasterCard International Incorporated ("MasterCard") in response to the Joint Notice of Proposed Rulemaking ("Proposed Rules") issued by the Board of Governors of the Federal Reserve System ("Board") and the Federal Trade Commission ("FTC") to establish effective dates for certain provisions in the Fair and Accurate Credit Transactions Act ("FACT Act") that do not contain specific effective dates. Mastercard appreciates the opportunity to provide its comments on the Interim Rules.

The FACT Act is a comprehensive piece of legislation addressing a variety of topics related to our national credit system. The FACT Act includes effective dates for several specific provisions of the legislation. However, Section 3 of the FACT Act requires the Board and the FTC (collectively, the "Agencies") to prescribe joint regulations establishing an effective date for each provision of the FACT Act for which the legislation does not provide a specific effective date. Under the law, the Agencies must establish effective dates that are "as early as possible, while allowing a reasonable time for the implementation" of the provision. In no case may the effective date established by the Agencies be more than ten months after the date of issuance of the Agencies' joint final rules establishing the effective dates.

¹ Mastercard is a SEC-registered private share corporation that licenses financial institutions to use the Mastercard service marks in connection with a variety of payments systems.

Effective Date of March 31, 2004

The Proposed Rules establish an effective date of March 31, 2004 for the following sections of the FACT Act: 111 (definitions), 156 (statute of limitations), 312(d), (e), and (f) (furnisher provisions), 313(a) (complaint coordination), 611 (employee investigations), and 811 (clerical amendments). With the exception of the effective date for section 156 pertaining to the statute of limitations, we believe that the Agencies have chosen an appropriate effective date for these provisions. In this regard, the effective dates would be "early" – less than four months after the enactment of the FACT Act. The dates would also allow a reasonable time for implementation. Indeed, with the exception of section 156, MasterCard believes that the effective dates could be made even earlier for each of the sections listed.

With respect to section 156, we urge the Agencies to establish an effective date of December 1, 2004. Prior to the FACT Act, the Fair Credit Reporting Act ("FCRA") included a statute of limitations of two years dating from "the date on which the liability arises." The Supreme Court has determined that the date on which liability arises is the date on which the violation of the FCRA occurs. However, the FCRA also established an alternative statute of limitations if the defendant has materially and willfully misrepresented any information required by the FCRA to be disclosed to the individual, and the information misrepresented is material to the establishment of the defendant's liability. In these circumstances, the FCRA's statute of limitations was two years dating from the discovery by the individual of the misrepresentation. As a result of the FACT Act, the statute of limitations in all cases will be two years from the date of discovery by the plaintiff of the violation with a limit of five years from the date on which the violation occurs.

MasterCard believes it would be appropriate for the Agencies to provide an effective date for section 156 later than March 31, 2004. In this regard, the FACT Act makes substantial changes to the statute of limitations under the FCRA. The extended statute of limitations for many causes of action will require users of consumer reports and others to reevaluate and alter their recordkeeping systems in order to retain the appropriate documents and other information that may be necessary for use in future causes of action. These entities should be given appropriate time to evaluate and adjust their recordkeeping systems accordingly. Therefore, we urge the Agencies to establish an effective date of December 1, 2004 for section 156 of the FACT Act.

Effective Date of December 1, 2004

The Proposed Rules establish an effective date of December 1, 2004 for most of the provisions in the FACT Act that did not include a specific effective date. The December 1, 2004 effective date would apply to provisions such as those pertaining to fraud alerts, tradeline blocking, the repollution of consumer reports, affiliate sharing, and the risk-based pricing notice, among others. In light of the significant impact many of these provisions will have on users of consumer reports and data furnishers, we believe the Agencies have chosen an appropriate effective date that is consistent with the statutory constraints

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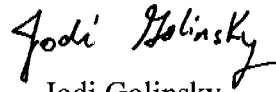
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included in the FACT Act. However, as the rulemaking under the FACT Act progresses, it will be critical for the Agencies to provide financial institutions and others sufficient time to comply with the new FACT Act requirements. Depending on the complexity of the numerous rules to be issued, and the timeframe under which they are issued, varying compliance dates will need to be provided. Therefore, although we believe that several of these provisions will take more time to be fully implemented, we urge the Agencies to retain December 1, 2004 as the effective date for the sections as proposed.

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If you have any questions concerning our comments, or if we may otherwise be of assistance in connection with this issue, please do not hesitate to call me, at the number indicated above, or Michael F. McEneney at Sidley Austin Brown & Wood LLP, at (202) 736-8368, our counsel in connection with this matter.

Sincerely,

A handwritten signature in black ink that reads "Jodi Golinsky". The signature is written in a cursive, flowing style.

Jodi Golinsky
Vice President
Legislative/Regulatory & Privacy Counsel

cc: Michael F. McEneney, Esq.